

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ROBERT LEE LAZARUS,

Plaintiff,

Case No. 1:07-cv-524

v

Hon. Wendell A. Miles

SUZANNE EISEN, *et al.*,

Defendants.

ORDER ON MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION
AND ORDER OF DISMISSAL

Plaintiff, a Michigan prisoner, originally filed this action on May 31, 2007. On November 19, 2008, United States Magistrate Judge Ellen S. Carmody issued a Report and Recommendation ("R & R") recommending that plaintiff's claims against the remaining defendants in this action be dismissed without prejudice for failure to effect timely service. Although plaintiff previously requested that service be re-attempted on one defendant, Suzanne Eisen, plaintiff has not filed written objections to the R & R and has not provided an address where Eisen may be served.¹

¹The United States Marshals Service attempted to serve defendant Eisen by mail at the Ionia Maximum Correctional Facility in October, 2007. The summons and complaint were apparently forwarded to the Michigan Department of Corrections' ("MDOC") Richard A. Handlon Correctional Facility, where plaintiff contends Eisen currently works. However, by letter dated November 13, 2007, MDOC officials at the Handlon facility declined to accept service on behalf of Eisen, who is employed by the Michigan Department of Community Health. See docket no. 14 (letter attached to return of service - unexecuted). Even if plaintiff did not become aware at that time that Eisen should be served at the Department of Community Health, he should have become aware of this necessity after December 6, 2007, when another defendant, Correctional Medical Services, indicated in its motion for summary judgment that it is the Department of Community Health which provides mental health services to MDOC prisoners. Notwithstanding this fact, plaintiff recently nonetheless requested that Eisen be served at the Handlon facility, which has already refused service on her behalf.

The court, having reviewed the R & R filed by the United States Magistrate Judge in this action in addition to the relevant portions of the record, concludes that the Magistrate Judge is correct in concluding that the claims against defendants Eisen, Unknown Bauer, Unknown Badger, and other unidentified and unknown parties should be dismissed without prejudice.

The court therefore adopts the Magistrate Judge's R & R as the decision of the court. This case is dismissed in its entirety.

So ordered this 23rd day of December, 2008.

/s/ Wendell A. Miles
Wendell A. Miles, Senior Judge